

# *San Marino*

## EXTRADITION

*Treaty signed at Rome January 10, 1906*

*Ratified by San Marino February 19, 1906*

*Senate advice and consent to ratification April 17, 1908*

*Ratified by the President of the United States May 7, 1908*

*Ratifications exchanged at Rome June 8, 1908*

*Proclaimed by the President of the United States June 12, 1908*

*Entered into force July 8, 1908*

*Supplemented by convention of October 10, 1934*<sup>1</sup>

35 Stat. 1971; Treaty Series 495

### TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF SAN MARINO FOR THE MUTUAL EXTRADITION OF FUGITIVE CRIMINALS

The United States of America and the Republic of San Marino having judged it expedient with a view to the better administration of justice and the prevention of crime within their respective territories and jurisdictions, that persons charged with or convicted of the crimes and offences herein-after enumerated, and being fugitive from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a Convention for that purpose and have appointed as their Plenipotentiaries:

The President of the United States of America, His Excellency, Henry White, Ambassador Extraordinary and Plenipotentiary to the Kingdom of Italy;

The Captains-Regent of the Republic of San Marino, His Excellency, Senator Cavaliere Gaspare Finali, Cavaliere of the Supreme Order of the

---

<sup>1</sup> TS 891, *post*, p. 446.

S.S. Annunziata, etc. etc. Political Counsellor of the Republic of San Marino:

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

#### ARTICLE I

The Government of the United States and the Government of San Marino mutually agree to deliver up persons who, having been charged, as principals or accessories, with or convicted of any of the crimes and offences specified in the following article committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: Provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime had been there committed.

#### ARTICLE II

Persons shall be delivered up who shall have been convicted of or be charged, according to the provisions of this convention, with any of the following crimes:

1. Murder, comprehending the crime of parricide, assassination, poisoning and infanticide.
2. The attempt to commit murder.
3. Rape, or attempt to commit rape. Bigamy. Abortion.
4. Arson.
5. Piracy, or mutiny on shipboard whenever the crew, or part thereof, shall have taken possession of the vessel by fraud or by violence against the commander.
6. Larceny; the crime of burglary, defined to be the act of breaking and entering by night into the house of another with the intent to commit felony; and the crime of robbery, defined to be the act of feloniously and forcibly taking from the person of another money or goods by violence or putting him in fear; and the corresponding crimes punished by the penal code of San Marino under the description of thefts committed in an inhabited house by night, and by breaking in by climbing or forcibly, and thefts committed with violence or by means of threats.
7. The crime of forgery, by which is understood the utterance of forged papers, and also the counterfeiting of public, sovereign, or governmental acts.
8. The fabrication or circulation of counterfeit money either coin or paper, or of counterfeit public bonds, coupons of the public debt, bank notes, obligations, or in general anything being a title or instrument of

credit; the counterfeiting of seals and dies, impressions, stamps, and marks of State and public administrations, and the utterance thereof.

9. The embezzlement of public moneys committed within the jurisdiction of either party by public officers or depositaries.

10. Embezzlement by any person or persons hired or salaried to the detriment of their employers, when the crime is subject to punishment by the laws of the place where it was committed, and the amount of money or the value of the property embezzled is not less than two hundred dollars or one thousand francs.

11. Wilful and unlawful destruction or obstruction of railroads which endangers human life.

12. Obtaining money, valuable securities or other property by false pretences, when such act is made criminal by the laws of both countries and the amount of money or the value of the property fraudulently obtained is not less than two hundred dollars or one thousand francs.

13. Kidnapping of minors.

14. Reception of articles obtained by means of one of the crimes or offences provided for by the present Convention.<sup>2</sup>

Extradition may also be granted for the attempt to commit any of the crimes above enumerated when such attempt is punishable by the laws of both contracting parties.

### ARTICLE III

A person surrendered under this Convention shall not be tried or punished in the country to which his extradition has been granted, nor given up to a third power for a crime or offence not provided for by the present Convention and committed previously to his extradition, until he shall have been allowed one month to leave the country after having been discharged; and, if he shall have been tried and condemned to punishment, he shall be allowed one month after having suffered his penalty or having been pardoned.

He shall moreover not be tried or punished for any crime or offence provided for by this Convention committed previous to his extradition, other than that which gave rise to the extradition, without the consent of the government which surrendered him, which may, if it think proper, require the production of one of the documents mentioned in Article VII, of this convention.

The consent of that government shall likewise be required for the extradition of the accused to a third country; nevertheless, such consent shall not be necessary when the accused shall have asked of his own accord to be tried or to undergo his punishment, or when he shall not have left within

---

<sup>2</sup> For an addition to the list of crimes, see supplementary convention of Oct. 10, 1934 (TS 891), *post*, p. 446.

the space of one month above specified the territory of the country to which he has been surrendered.

#### ARTICLE IV

The provisions of this convention shall not be applicable to persons guilty of any political crime or offence or of one connected with such a crime or offence. A person who has been surrendered on account of one of the common crimes or offences mentioned in Article II, shall consequently in no case be prosecuted and punished in the state to which his extradition has been granted on account of a political crime or offence committed by him previously to his extradition or on account of an act connected with such a political crime or offence, unless he has been at liberty to leave the country for one month after having been tried and, in case of condemnation, for one month after having suffered his punishment or having been pardoned.

#### ARTICLE V

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this convention.

#### ARTICLE VI

If the person whose surrender may be claimed pursuant to the stipulations of the present treaty shall have been arrested for the commission of offences in the country where he has sought an asylum, or shall have been convicted thereof, his extradition may be deferred until he shall have been acquitted or have served the term of imprisonment, to which he may have been sentenced.

#### ARTICLE VII

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the contracting parties, or, in the event of the absence of these, from the country or its seat of government, they may be made by superior consular officers.

If the person, whose extradition may be asked for, shall have been convicted of a crime or offence, a copy of the sentence of the judicial authority, by whom he may have been convicted, authenticated under its seal, and attestation of the official character of the judge by the proper executive authority, and of the latter by the minister or consul of the United States or of San Marino respectively, shall accompany the requisition. When, however, the fugitive shall have been merely charged with crime, a duly authenticated copy of the warrant for his arrest in the country where the crime may have been committed, and of the depositions upon which such warrant may have been issued, must accompany the requisition as aforesaid.

It shall be lawful for any competent judicial authority of the United States, upon production of a certificate issued by the Secretary of State stat-

ing that a request has been made by the Government of San Marino for the provisional arrest of a person convicted or accused of the commission therein of a crime or offence extraditable under the provisions of this convention, and upon complaint duly made that such crime or offence has been so committed, to issue his warrant for the apprehension of such person. But if the demand for surrender, with the formal proofs hereinbefore mentioned, be not made as aforesaid by the diplomatic agent of the demanding government, or, in his absence, by the competent consular officer, within forty days from the date of the commitment of the fugitive, the prisoner shall be discharged from custody.

And the Government of San Marino will, upon request of the Government of the United States, transmitted through the diplomatic agent of the United States, or, in his absence, through the competent consular officer, secure in conformity with law the provisional arrest of persons convicted or accused of the commission therein of crimes or offences extraditable under this Convention. But if the demand for surrender, with the formal proofs hereinbefore mentioned, be not made as aforesaid by the diplomatic agent of the demanding government, or, in his absence, by the competent consular officer, within forty days from the date of the commitment of the fugitive, the prisoner shall be discharged from custody.

#### ARTICLE VIII

The expenses of the arrest, detention, examination and delivery of fugitives under this convention shall be borne by the State, in whose name the extradition is sought; Provided, that the demanding Government shall not be compelled to bear any expense for the services of such officers of the government from which extradition is sought as receive a fixed salary; and provided that the charge for the services of such public officials as receive only fees shall not exceed the fees to which such officials are entitled under the laws of the country for services rendered in ordinary criminal proceedings.

#### ARTICLE IX

Extradition shall not be granted, in pursuance of the provisions of this convention, if legal proceedings or the enforcement of the penalty for the act committed by the person claimed has become barred by limitation, according to the laws of the country to which the requisition is addressed.

#### ARTICLE X

All articles found in the possession of the accused party and obtained through the commission of the act with which he is charged, or that may be used as evidence of the crime for which his extradition is demanded, shall be seized if the competent authority shall so order, and shall be surrendered with his person.

The rights of third parties to the articles so found shall nevertheless be respected.

#### ARTICLE XI

The present convention shall take effect thirty days after the exchange of ratifications and shall continue to have binding force for six months after a desire for its termination shall have been expressed in due form by one of the two governments to the other.

It shall be ratified and its ratifications shall be exchanged at Rome as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above articles both in the English and Italian languages, and they have hereunto affixed their seals.

Done, in duplicate, at Rome, Italy, this 10th day of January, 1906.

HENRY WHITE	[SEAL]
GASPARE FINALI	[SEAL]